

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TORRANCE UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2014041096

ORDER DENYING DISTRICT'S  
NOTICE OF INSUFFICIENCY

On April 23, 2014 Student file a Due Process Hearing Request <sup>1</sup> (complaint) naming Torrance Unified School District (District). On April 23, 2014, District timely filed a Notice of Insufficiency (NOI) as to Student's complaint. For the reasons discussed below, the complaint is sufficient.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.<sup>2</sup> The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of Title 20 United States Code section 1415(b)(7)(A).

A complaint is sufficient if it contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education (FAPE) to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem to the extent known and available to the party at the time.<sup>3</sup> These requirements prevent vague and confusing complaints, and promote fairness by providing the

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<sup>1</sup> A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

<sup>2</sup> 20 U.S.C. § 1415(b) & (c).

<sup>3</sup> 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.<sup>4</sup>

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”<sup>5</sup> The pleading requirements should be liberally construed in light of the broad remedial purposes of the IDEA and the relative informality of the due process hearings it authorizes.<sup>6</sup> Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.<sup>7</sup>

A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).)

## DISCUSSION

Student’s complaint alleges that: Student is a 12 year old male who attends middle school within the District; he has attended District schools since kindergarten pursuant to an inter-district transfer permit; he has Type 1 Diabetes and Attention Deficit Hyperactivity Disorder and Depressive Disorder, all of which impact Student’s educational performance and overall vitality at school; District has provided him with a Section 504 plan that has been ineffective; Student has suffered from academic regression for the past two years; Student experienced more significant academic difficulties when he transitioned to middle school; Parents requested an assessment for special education eligibility on February 27, 2014; District threatened Parents that it would revoke Student’s inter-district transfer permit if they pursued special education within the District; and District has not provided Student any special education services. Student’s proposed resolutions include assessments, reimbursement for privately funded educational services, a 1:1 aide to assist with Student’s

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<sup>4</sup> See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

<sup>5</sup> Sen. Rep. No. 108-185, *supra*, at p. 34.

<sup>6</sup> *Alexandra R. v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board of Educ. v. Benton* (S.D.Ala. 2005) 406 F. Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Bd.* (M.D. Fla., Oct. 28, 2005, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

<sup>7</sup> Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed.Reg. 46540-46541, 46699 (Aug. 14, 2006).

diabetic care; a mental health evaluation, and compensatory educational services in the form of 1:1 intensive tutoring.

The complaint alleges the following issues:

1. Did District deny Student a free appropriate public education (FAPE) by failing to meet its Child Find obligations under the Individuals with Disabilities Education Act (IDEA)?
2. Did District deny Student a FAPE by failing to assess Student for special education eligibility after Parents requested that District do so?
3. Did District deny Student a FAPE by failing to provide an appropriate placement and program where Student could make meaningful academic progress?

District contends the complaint is insufficient because Student fails to allege exactly when District should have found him eligible for special education, an argument that is not persuasive in light of the chronology of facts alleged in the complaint. The facts alleged in Student's complaint are sufficient to put the District on notice of the issues, as stated above, forming the basis of the complaint. Student's complaint identifies the issues and adequate related facts about each problem to permit District to respond to the complaint and participate a resolution session, mediation and a due process hearing.

District also contends that Student's proposed resolutions are insufficient as to what privately-funded educational services Parents paid for, when, from whom and where. The resolutions are also sufficiently defined to put District on notice of the resolutions known to Student at the time he filed the complaint.

#### ORDER

1. The complaint is sufficient under Title 20 United States Code section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

DATE: April 28, 2014

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ADRIENNE L. KRIKORIAN  
Administrative Law Judge  
Office of Administrative Hearings